Kamala D. Harris Attorney General of California 2 KAREN B. CHAPPELLE Supervising Deputy Attorney General GEOFFREY WARD 3 Deputy Attorney General 4 State Bar No. 246437 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 5 Telephone: (213) 897-2660 6 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE BOARD OF REGISTERED NURSING 8 DEPARTMENT OF CONSUMER AFFAIRS 9 STATE OF CALIFORNIA 10 Case No. 2013-27 In the Matter of the Accusation Against: 11 CYNTHIA ANN ZERBAN 12 ACCUSATION Address of Record: 13 6812 Hancock Street St. Louis, MO 63139 14 Additional Address: 15 404 E. Hancock Steeleville, IL 62288 16 Registered Nurse License No. 589662 17 Respondent. 18 19 Complainant alleges: **PARTIES** 20 Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her 21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department 22 23 of Consumer Affairs. On or about October 18, 2001, the Board of Registered Nursing issued Registered 24 Nurse License Number 589662 to Cynthia Ann Zerban ("Respondent.") The Registered Nurse 25 license expired on February 28, 2003 and has not been renewed. 26 27 111 28 111. Accusation

## **JURISDICTION**

- 3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws:
- 4. Section 2750 of the Business and Professions Code (all section references are to the Business and Professions Code unless otherwise noted) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.
- 6. Section 118 subdivision (b) also grants the Board jurisdiction over suspended, expired, forfeited, cancelled, or surrendered licenses:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

7. Title 16, Section 1419.3 of the California Code of Regulations defines the period in which a license may be renewed or reinstated:

"In the event a licensee does not renew his/her license as provided in Section 2811 of the code, the license expires. A licensee renewing pursuant to this section shall furnish a full set of fingerprints as required by and set out in section 1419(b) as a condition of renewal.

- (a) A licensee may renew a license that has not been expired for more than eight years by paying the renewal and penalty fees as specified in Section 1417 and providing evidence of 30 hours of continuing education taken within the prior two-year period.
- (b) A licensee may renew a license that has been expired for more than eight years by paying the renewal and penalty fees specified in Section 1417 and providing evidence that he or she holds a current valid active and clear registered nurse license in another state, a United States territory, or Canada, or by passing the Board's current examination for licensure."

### **STATUTES**

8. Section 2761, which is part of Article 3 of the Nursing Practice Act, provides, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action...."

## COST RECOVERY

9. Section 125.3 provides, in pertinent part, that the Board, Registrar, or Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### CAUSE FOR DISCIPLINE

# (Disciplinary Action by the Illinois Department of Nursing)

- 10. Respondent is subject to disciplinary action under Section 2761 subdivision (a)(4) because the Illinois Department of Financial and Professional Regulation ("Illinois Department") suspended her license to practice nursing in Illinois in 2005 and then placed her license on probation in 2009. The circumstances of the Illinois Department's disciplinary actions are as follows:
- order indefinitely suspending Respondent's nursing license for a minimum of three years. This order found that Respondent had been convicted in Randolph County, Illinois of felony possession of a controlled substance. It also concluded that Respondent had violated 225 Illinois Compiled Statutes 65/10-45(b)(3)(conviction of a crime), (7)(dishonorable, unethical or unprofessional conduct), and (9)(habitual or excessive use or addiction to alcohol, narcotics,

stimulants, or any other chemical agent or drug.) It required that Respondent present evidence of rehabilitation to petition for restoration of her license, including evidence of completion of coursework, an evaluation by a health care practitioner for substance abuse problems, completion of a treatment program, sobriety of at least one year, twice-weekly participation in a 12-step program, submission to quarterly random urine screens, and submission of employment history.

- 12. In a subsequent order, effective November 13, 2009, the Illinois Department granted Respondent's petition for restoration of her nursing license after she presented evidence she had complied with the terms of the 2005 suspension. This 2009 order placed Respondent's license on probation for three years.
- 13. Under Section 2761 subdivision (a)(4) the indefinite suspension of Respondent's Illinois nursing license by the Illinois Department in 2005 is grounds for the California Board to take disciplinary action.

#### **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking, suspending, or publically reproving Registered Nurse License Number 589662, issued to Cynthia Ann Zerban;
- 2. Ordering Cynthia Ann Zerban to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code Section 125.3;
  - 3. Taking such other and further action as deemed necessary and proper.

DATED: July 10, 2012

LQUISE R. BAILEY, M.Ed., R.N.

Interim Executive Officer Board of Registered Nursing

Department of Consumer Affairs

State of California Complainant

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